

**REMARKS**

***Elections/Restrictions***

As per the Examiner's restriction requirement, applicant has withdrawn claims 14-18 from the present application.

***Claim rejections 35 USC § 102***

The Examiner has rejected claims 1, 19 and 20, under 35 USC § 102 (e) as being anticipated by Rastegar et al (US 6,845,542).

Regarding these claims applicant has amended these claims to further distinguish applicant's invention from the above cited prior art reference. In particular, the tube is now connected to the release valve by means of an export duct, wherein the export duct extends from the release valve toward the rear sidewall region of the can of compressed gas and being connected to the tube in the area of the rear sidewall region. Furthermore, the trigger as recited in the amended claim is now located outside the tube. In order to overcome a 102 (b) rejection an applicant can amend the rejected claims to be patentably distinguishable from the prior art reference. In the instant case, the trigger in Rastegar is located inside the tube, see Fig. 1a, 1b and 4a. In addition, the export duct in Rastegar, although oriented below the tube, does not extend toward the rear sidewall region of the can, see Figs. 1a and 1b. The above amended claims have further distinguished applicant's invention from the Rastegar reference, and as such these claims and any claims depending therefrom should now be in condition for allowance.

The Examiner has rejected claims 1, 2, 7-11 and 13 under 35 U.S.C. § 102 (b), as being anticipated by Hamilton (US 5,989,360). Although, the Hamilton patent does disclose a trigger

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that is located outside the tube, it does not teach or suggest of an export duct that is below the tube, as clearly seen in Figs. 1 a-b, 2, 3, 4 c-d, 5 a-d and 6. For the reasons as set forth above these claims and any claims depending therefrom should now be in condition for allowance.

### ***Claim rejections 35 USC § 103***

The Examiner has rejected claims 5 and 6 under 35 USC 103(a), as being unpatenable over Rastegar as modified by Brinich et al (US 3,210,927). As mentioned above, Rastegar does not teach or suggest the applicant's export duct configuration. In addition, the Brinich patent was cited by the Examiner to show the obviousness of having a battery connected to a resistor wire to provide a greater heating contact surface. Thus, combining these two references does not teach or suggest the applicant's invention. In order "[t]o establish a prima facie case of obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art", *In Re Royka*. Because all the claim limitations are not taught or suggested, these claims and any claims depending therefrom should now be in condition for allowance.

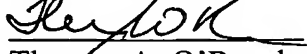
### ***Double patenting***

The Examiner has rejected claims 1, 2, 7-11 and 13 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-14 of US Patent No. 6,904,778, because, although they are not identical, they are not patentably distinct from each other in that they disclose the same invention. Accompanying this amendment is a terminal disclaimer in compliance with 37 CFR 1.321(c) and 37 CFR 1.321(d), and as such these claims any claims depending therefrom should now be in condition for allowance.

**CONCLUSION**

For the foregoing reasons, applicant's claims are patentable and the application should be in condition for allowance.

Respectfully submitted,



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**CERTIFICATE OF MAILING**

I hereby certify that the foregoing Response was mailed by first class mail, postage prepaid, in an envelope addressed to the Commissioner for Patents

P.O. Box 1450 Alexandria, VA 22313-1450 on this 16<sup>th</sup> day of November, 2006.



Thomas A. O'Rourke